

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TENNECO AUTOMOTIVE
OPERATING CO., INC.,

Plaintiff,

vs.

Case No. 08-CV-10467
HON. GEORGE CARAM STEEH

KINGDOM AUTO PARTS, et al.,

Defendants.

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ORDER ACCEPTING JANUARY 27, 2009 REPORT AND RECOMMENDATION (#132)
AND DENYING DEFENDANTS' MOTION FOR A TRO (#120)

Magistrate Judge Mona Majzoub issued a January 27, 2009 Report and Recommendation recommending that defendant Kingdom Auto Parts' ("KAP") motion for a temporary restraining order ("TRO") enjoining plaintiff Tenneco Automotive Operating Co., Inc. from conducting further inspections upon KAP customers or serving them with additional subpoenas be denied. Magistrate Judge Majzoub reasons that the request to enjoin further discovery under Rule 65 governing injunctions is improper given the availability of a protective order under Rule 26. Consistent with this reasoning, Magistrate Judge Majzoub finds that the extraordinary relief of a TRO is unwarranted.

"A judge of the court shall make a de novo determination of those portions of [a] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636 (b)(1). Objections must be filed within 10 days after service of a Report and Recommendation. 28 U.S.C. § 636 (b)(1)(C). A party's failure to timely object waives

further judicial review. Thomas v. Arn, 474 U.S. 140, 149-155 (1985); Thomas v. Halter, 131 F.Supp.2d 942, 944 (E.D. Mich. 2001); 28 U.S.C. § 636(b)(1). KAP has not filed timely objections. Accordingly,

The court hereby ACCEPTS the January 27, 2009 Report and Recommendation as its own. Defendant KAP's motion for a TRO enjoining further inspections or subpoenas is hereby DENIED.

SO ORDERED.

Dated: February 17, 2009

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on February 17, 2009, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk